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SIPDIS

SENSITIVE

PASS DOT FOR OIA, ALSO FAA

E.O. 12958: N/A

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SUBJECT: NIGERIAN AVIATION MINISTER ON OPEN SKIES

REF: STATE 139112

¶1. (U) This cable contains an action request. Please see paragraph 7.

¶2. (SBU) Summary. Embassy officers met on August 25 with Nigerian Minister of Aviation Babalola Borishade on two aviation disputes: the GON's failure to grant American Airlines the authorization to introduce codeshare service to Nigeria on flights operated by British Airways, and the GON's failure to grant Continental Airlines the necessary operating authority to begin direct service between the United States and Nigeria. Borishade predicated the GON's approval of Continental's service to Nigeria with the USG's favorable consideration of U.S. landing rights for Virgin Nigeria, even though Virgin Nigeria has not yet formally applied for operating authority. Borishade equated Nigeria's delay in approval of Continental's Lagos service to what he called the USG failure to respond in writing that the USG accepted the GON's designation of Virgin Nigeria under the Open Skies Agreement. End summary.

¶3. (SBU) Economic counselor, economic officer, and economic specialist met on August 25, 2005 with Imoro Kubor, the Nigerian Ministry of Aviation's director of air transport management, and then with Minister of Aviation Babalola Borishade. The two sides discussed the GON's failure to grant American Airlines the authorization to introduce codeshare service in Nigeria on flights operated by British Airways, and the GON's failure to grant Continental Airlines the necessary operating authority to begin direct service between the United States and Nigeria. Kubor expressed surprise that former Minister of Aviation Isa Yuguda had not granted codeshare approval to American for flights serving Nigeria. Kubor noted that Northwest Airlines already had a codesharing arrangement with KLM Royal Dutch Airlines for such flights, and ventured that if American re-applied for codeshare approval, "I believe it will be accepted."

¶4. (U) Embassy officers then met with Minister of Aviation Borishade, with Kubor in attendance. The economic counselor delivered ref talking points on U.S.-Nigerian aviation disputes, which embassy had earlier sent to the Ministries of Foreign Affairs and Aviation. Borishade acknowledged that U.S. had a right to be concerned if Nigeria failed to abide by the Open Skies Agreement. He then went on to say, however, an agreement should work both ways and said the GON's was concerned that while Continental had been poised to begin flights to Nigeria, Virgin Nigeria's efforts to begin direct service to the United States were only in the early stages. Borishade termed these differences "lopsided."

¶5. (SBU) Kubor said that the USG had not responded to the GON's diplomatic note designating Virgin Nigeria under the Open Skies Agreement (OSA), to begin direct flights to the United States. He said Virgin Nigeria had applied formally "months ago" to the U.S. Department of Transportation (USDOT) to operate direct flights. Economic Counselor noted the embassy was aware of Virgin Nigeria's discussions with the USDOT but said that the information we had from DOT was that Virgin Nigeria had not yet applied for economic authority (landing rights). (Begin comment: The Department earlier informed Embassy Abuja that as of August 3, Virgin Nigeria had not applied for economic authority. The Ministry of Aviation apparently is not distinguishing between the GON's and Virgin Nigeria's continued discussions, over several months, with the USDOT, and Virgin Nigeria's actually completing the application process. Ambassador John Campbell, in his talking points for his July 29 meeting in Lagos with Virgin Nigeria's chief executive officer, confirmed that the USDOT had indeed received the GON's designation of Virgin Nigeria under the OSA. End comment.)

¶6. (SBU) Borishade requested a formal written USG acceptance of the GON's designation of Virgin Nigeria under the OSA, contending that if the USG "does not approve a designation, there is no use in applying." Kubor linked Continental's difficulties to Virgin Nigeria's efforts for direct U.S.

flights, saying, "It is this lack of a reply from the U.S. Government that is the problem." They equated such acceptance with a pre-assurance that the USDOT would approve Virgin Nigeria's direct service to the United States. The Economic Counselor said the U.S. had received the GON's designation and told the Minister that the GON's designation meant that Virgin Nigeria was free to apply for operating authority, and that this was the necessary next step for any action regarding Virgin Nigeria. She agreed, however, to contact Washington regarding providing written acknowledgment that the USG had received the GON's designation. The August 25 meeting with embassy officers was the first time GON aviation officials explicitly tied the approval of Continental's Lagos service to the new GON demand that the USG confirm receipt of Nigeria's diplomatic note designating Virgin Nigeria under the OSA.

17. (U) Action request: Embassy Abuja requests authorization to provide a diplomatic note to the Nigerian Ministry of Aviation confirming that the USG has received Virgin Nigeria's request for designation under the OSA. We suggest language along the lines of "Complimentary opening... the U.S. government received of Diplomatic No.xxx of month, day, year in which the Government of Nigeria's designated Virgin Nigeria under the bilateral Open Skies Agreement. Virgin Nigeria may make formal application to the U.S. Department of Transportation for operating authority. Complimentary closing."

18. (SBU) Begin comment: Minister of Aviation Borishade started the meeting by saying he was unprepared for the meeting. This was despite his having discussed these issues informally at length fewer than three weeks ago with the embassy's former political counselor, and also at that time receiving copies of reftel talking points. Both Borishade and Air Transport Management Director Kubor made clear that Nigeria intended to treat the matter as a quid pro quo that predicated the GON's approval of Continental's service to Nigeria with the USG's favorable consideration of U.S. landing rights for Virgin Nigeria. Though the insistence on linking the issues is in violation of the agreement and will remain a problem, it may be worthwhile to remove the excuse that the USG has not responded in writing to Nigeria's designation by sending the dip note, thus putting the action on both Continental's application and Virgin Nigeria's application firmly in the Nigerian court. End comment.

CAMPBELL